

# Notice of Allowability

Application No.

10/057,156

Examiner

Frank I Choi

Applicant(s)

FORUSZ ET AL.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After-Final Amendment (2/9/2004).
2. ☒ The allowed claim(s) is/are 1-11, 17-19[renumbered as claims 12-14], 21[renumbered as claim 15], 23[renumbered as claim 16].
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**


5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_



  
**THURMAN K. PAGE**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**  
Part of Paper No./Mail Date 2004030

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### EXAMINER'S AMENDMENT/REASONS FOR ALLOWANCE

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Roberta Hanson on 3/5/2004.

The application has been amended as follows:

**Specification, Page 1, line 2 of paragraph [0001]:** after "July 30, 1999" but before "by applicants" insert the following:

-- , now Patent. No. 6,436,446, --.

**Claim 17, lines 7,8:** after "compound" but before "a dietary" insert the following:

-- ; --.

**Claim 17, line 14:** after "pH 5" insert the following:

-- . --.

The following is an examiner's statement of reasons for allowance: In consideration of the After-Final Amendment (2/9/2004) and in reconsideration of the prior Office Actions and responses thereto, the claimed invention is neither expressly disclosed nor fairly suggested by the prior art. The prior art does not disclose or make obvious methods of administering a beverage comprising the claimed mineral compounds, inulin or fructo-oligosaccharide and pH modifying organic acid up to the equivalent amount of calcium of the calcium compound, where in all the

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components are solubilized in the beverage and the pH ranges from 3-5; or a composition comprising the claimed mineral compounds, inulin, a pH modifying organic acid up to the equivalent amount of calcium of the calcium compound and the claimed stabilizers, where when in solution the composition is translucent and has a pH of 3-5; or a composition comprising claimed mineral compounds, including phosphorus in the magnesium compound, inulin, and a pH modifying organic acid up to the equivalent amount of calcium of the calcium compound, where when in solution the composition is translucent and has a pH of 3-5.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a flexible schedule. However, Examiner may generally be reached Monday-Friday, 8:00 am – 5:30 pm (EST), except the first Friday of the each biweek which is Examiner's normally scheduled day off.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Thurman Page, can be reached at (571)272-0602). Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (703) 308-1235 and (703) 308-0198, respectively.

FIC

March 5, 2004



THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
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